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7 HASSAN ABPIKAR and
8 CLAUDIO CASTRO,
9 Plaintiffs,
10 v.
11 ARIA HERMATIAN,
12 Defendant.

13 Case No. 19-cv-00425-NC
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**ORDER TO SHOW CAUSE WHY
THIS COURT HAS SUBJECT
MATTER JURISDICTION**

16 Pro se plaintiffs Hassan Abpikar and Claudia Castro filed a complained against Aria
17 Hermatian over unpaid rent. Dkt. No. 1. Plaintiffs state that this Court has subject matter
18 jurisdiction over the action based on both federal question (28 U.S.C. § 1331) and diversity
19 (28 U.S.C. § 1332) grounds. *Id.* at 2. The Court is concerned that neither basis for subject
20 matter jurisdiction actually applies here, and so hereby ORDERS the plaintiffs to show
21 cause why it has subject matter jurisdiction over this case.

22 **I. SUBJECT MATTER JURISDICTION**

23 Federal courts are courts of limited jurisdiction. They may only exercise authority
24 over controversies delineated in Art. III, § 2, cl. 1 of the U.S. Constitution. Subject matter
25 jurisdiction allows a court to render judgments over the claims in the case. *See Stoll v.*
26 *Gottlieb*, 305 U.S. 165, 171 (1938); *see also Thompson v. Whitman*, 18 Wall. 457, 465
27 (1874). Subject matter jurisdiction refers to the tribunal's power to hear the case, as a
28 separate issue from whether the plaintiffs' allegations entitle them to relief. *Morrison v.*

1 *Nat'l Australia Bank Ltd.*, 561 U.S. 247, 254 (2010). Courts have “an independent
2 obligation to determine whether subject-matter jurisdiction exists, even in the absence of a
3 challenge from any party.” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006). If a federal
4 court determines that it lacks subject matter jurisdiction, it must dismiss the entire
5 complaint. *Id.*

6 There are two bases for subject matter jurisdiction: federal question and diversity.
7 “Federal question” refers to the federal district court’s original jurisdiction over all civil
8 actions which arise under the Constitution or federal law. 28 U.S.C. § 1331. “Diversity”
9 jurisdiction requires that (1) the amount in controversy exceed \$75,000, and (2) parties be
10 citizens of different states. 28 U.S.C. § 1332(a). When neither of these bases apply, a case
11 is properly brought in state court.

12 **II. ANALYSIS**

13 Under Federal Rule of Civil Procedure 8(a)(1), it is the plaintiff’s burden to plead a
14 short and plain statement of the grounds for the court’s jurisdiction. Here, plaintiffs state
15 that because a “Rental Payment Declaration” was signed before the federal bankruptcy
16 court, the case contains a federal question. Dkt. No. 1 at 2. Plaintiffs also state that the
17 amount in controversy is over \$75,000 (they request \$80,000 in damages, plus interest,
18 along with the defendant’s eviction from their house). *Id.* at 1, 2. Both plaintiffs and the
19 defendant are citizens of California. *Id.* at 2. Therefore, diversity jurisdiction is not
20 applicable here and only federal question jurisdiction may exist.

21 Plaintiffs seem to base their federal question argument on their allegation that the
22 defendant currently has a case before a federal bankruptcy court, and their claim that the
23 defendant perjured himself before that court. *Id.* at 6. Specifically, plaintiffs allege that
24 the defendant signed a declaration under penalty of perjury before the bankruptcy court
25 stating that he would pay rent to Ms. Castro at \$2,500 per month, but that he has failed to
26 do so after May 2016. *Id.*

27 Federal question jurisdiction requires that a suit “arise[s] under” a federal law or the
28 U.S. Constitution. 28 U.S.C. § 1331. Here, the plaintiffs have not pleaded that any federal

1 law, nor the U.S. Constitution, has been violated. That a case in federal bankruptcy court
2 is related somehow to these claims does not mean that a federal question exists. Even if
3 the defendant perjured himself in that federal bankruptcy court, perjury is not the basis for
4 a civil lawsuit (rather, it is a crime). *See Pollock v. Uni. of S. California*, 112 Cal. App. 4th
5 1415, 1422 (2003). This landlord-tenant dispute seems more properly a question before
6 the courts of the State of California.

7 **III. CONCLUSION**

8 The Court has an obligation to ensure that it has subject matter jurisdiction over this
9 case; it is unsure here. The plaintiffs are therefore ORDERED TO SHOW CAUSE why
10 this Court has subject matter jurisdiction over their claims within fourteen days of this
11 order, by **February 8, 2019**.

12 The plaintiffs are also invited to consult with the Court's Pro Se Program for
13 limited-scope legal assistance for pro se litigants. The Pro Se Program is located in Room
14 2070 at the San Jose United States Courthouse, 280 S. 1st St., San Jose CA 95113 and is
15 available on a drop-in basis, or appointments can be made by phone at (408) 297-1480.

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17 **IT IS SO ORDERED.**

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19 Dated: January 25, 2019

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NATHANAEL M. COUSINS
United States Magistrate Judge

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